



Ukraine

Country Reports on Human Rights Practices - [2004](#)

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The country is a mixed presidential and parliamentary republic governed by a directly elected president, a prime minister who heads a cabinet of ministers, and a unicameral parliament (Rada). The prime minister is nominated by the president and approved by the Rada. The cabinet is nominated by the prime minister and approved by the president, but generally is under the president's direction. A series of elections for national and local offices during the year revealed serious shortcomings in democratic practice. After a badly flawed campaign in which government resources were misused to support the government backed candidate and to hinder the candidacy of his opponent, a presidential election was held on October 31, with a second round runoff between opposition leader Viktor Yushchenko and Prime Minister Viktor Yanukovich on November 21. Massive fraud conducted on behalf of the government backed candidate during the runoff election triggered the largest non violent protest movement in modern Ukrainian history, known popularly as the Orange Revolution. The Supreme Court ruled the runoff to be invalid and ordered that a repeat runoff election take place on December 26. The December 26 repeat runoff election, which Yushchenko won, and the short campaign that preceded it, were substantial improvements. The Constitution provides for an independent judiciary; however, many courts were inefficient and subject to political interference and corruption.

There are two principal security agencies, which share responsibility for internal security: The Security Service of Ukraine (SBU), which is formally responsible for domestic security and law enforcement, and the Ministry of Internal Affairs, which controls the various police forces. In addition, the State Tax Administration controls the tax police. A Foreign Intelligence Service (FIS) was established as a separate government agency in October with responsibilities that include, in addition to foreign intelligence collection, combating international organized crime and terrorism and promoting the security of Ukrainian institutions and citizens abroad. The armed forces largely remained outside of politics. Government agencies interfered in the political process through criminal and tax investigations of opposition politicians, independent journalists, and businessmen. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The economy was mixed, with the private sector accounting for 65 to 70 percent of gross domestic product. The country had a total population of approximately 47.4 million reflecting a continued downward trend. The gross domestic product grew by 12 percent during the year. The economy remains burdened by a lack of transparency, with the shadow economy accounting for a significant proportion of real income. Wage arrears, a problem in prior years, decreased, partly because of election year politics. The official rate of unemployment through August was 3.4 percent, although the International Labor Organization estimated the unemployment rate at 9 percent. Wealth was concentrated within the political elite and among directors of the state dominated and newly privatized sectors.

The Government's human rights record remained poor and worsened in a number of areas; however there were also improvements in some areas, particularly toward the end of the year. The citizens' right to change their government peacefully was restricted during most of the year by the authorities, who engaged in many forms of manipulation of parliamentary and local elections and particularly of the October 31 presidential race and the November 21 runoff. However, the repeat runoff on December 26, which followed the Supreme Court's invalidation of the first, was judged by international observers, including the OSCE, to have reflected the will of the people and to have brought Ukraine substantially closer to meeting Western standards for free and democratic elections.

Police and prison officials tortured and beat detainees and prisoners, and at least two detainees died under suspicious circumstances. Police abuse and harassment of racial minorities was a continuing problem. The beating of conscripts in the army by fellow soldiers was common and at times resulted in death. Reforms in the penal system led to some improvement in prison living conditions; however, prison conditions remained harsh. The Government rarely punished officials who committed abuses. Arbitrary searches, seizures, arrests, and detention from what appeared to be political motives were problems, as was lengthy pretrial detention in very poor conditions. Long delays in trials were a problem, and judges continued to readily grant most requests by prosecutors for residential search and wiretap warrants.

During most of the year, authorities interfered with the news media by harassing and intimidating journalists, censoring material, blocking interregional broadcasts of independent media, closing down independent media outlets, and pressuring them into practicing self censorship. There were some limits on freedom of assembly, and the authorities impeded the efforts of individuals to participate in some demonstrations. Freedom of association was restricted. There were some problems with registration and property disputes; however, the Government took steps to address the concerns of religious communities. There were instances

of anti-Semitic acts, including attacks on Rabbis and desecration of Jewish graves. There were some limits on freedom of movement. Violence and discrimination against women, including sexual harassment in the workplace, were problems as was violence against children. Trafficking in women and children for commercial sexual exploitation was a serious problem, which the Government took steps to address. Ethnic minorities and Muslims complained of harassment and frequent identity checks. The Government discouraged workers from organizing independent unions and regularly harassed independent unions.

RESPECT FOR HUMAN RIGHTS

Section 1

Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no confirmed reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents; however, at least four individuals died under questionable circumstances, two of them in police custody.

On April 23, the independent newspaper *Ukraina Moloda* reported that Melitopol resident Mykola Zahachevsky died in the city's pretrial detention facility under suspicious circumstances. Relatives reported that Zahachevsky's body was covered with signs of physical abuse and asserted that he had been beaten to death by investigators. The Zaporizhzhya Oblast prosecutor opened a criminal case against the police officers for exceeding their authority. There was no further information on progress in the case at year's end.

On September 18, a homosexual man, Dmytro Pakhomov died, reportedly while being questioned by police in Kryvyy Rih. According to human rights groups, police officials made derogatory remarks about Pakhomov's sexual orientation to his mother and told her that, in the midst of interrogation, her son suddenly jumped out a window and fell four floors to his death. When she retrieved her son's body at a local hospital, medical staff told her that Pakhomov had suffered multiple internal injuries, including liver, kidney, lung, and neck vertebrae damage not consistent with the police version of his death. The family of the deceased declined to request an investigation.

On March 3, the director of the independent Poltava television and radio company Yuta, Heorhiy Chechyk, died in an auto accident as he was traveling to Kiev to sign an agreement to broadcast Radio Liberty programs on Yuta's FM station, Poltava Plus. The Prosecutor General's office stated that Chechyk caused the accident by "violating traffic safety rules" and added that Chechyk "showed signs of acute myocardial ischemia" shortly before the crash. Most human rights groups accepted the

Government's version of the accident; however, company officials, some opposition politicians, and some human rights NGOs continued to suspect that Chechyk may have been deliberately killed as part of the Government's broader effort to silence Radio Liberty's voice (see section 2.a.).

On May 24, the longtime Rector of Uzhhorod State University, Volodymyr Slyvka, was found unconscious in his bathroom with slit wrists and a kitchen knife in his chest. He subsequently died. Local prosecutors refused to investigate the case and called it a suicide. However, opposition politicians said that Slyvka was killed because he refused to bow to pressure from the Governor of Zakarpatska Oblast, Ivan Rizak, to force students and faculty to support pro government candidates in elections. In the weeks prior to Slyvka's death, Governor Rizak used the pro government media and police to pressure the rector into stepping down, which he refused to do. After Slyvka's death, a political ally of Governor Rizak, Vasyl Rusyn, was "elected" the university's new rector in a Soviet style, single candidate special election.

Human rights groups asserted that soldiers continued to kill other soldiers during violent hazing events, although officials denied that any servicemen had died because of physical violence (see Section 1.c.). *Segodnya* newspaper reported on May 20 that, according to the Defense Ministry, 11 servicemen had committed suicide so far during the year, 6 of them while off duty. The Ministry blamed family and personal problems for the suicides; however, the Ukrainian military has frequently described death by hazing as suicide.

The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts. Opposition politicians, politically active businessmen, and journalists were the victims of attacks that sometimes were fatal and may have been politically motivated. Serious allegations persisted that Ministry of Internal Affairs officials were involved in killings and kidnappings in previous years.

Police declined to release any further information, either to the public or a special Parliamentary investigating commission, about the August 2003 death of Ivan Havdyda, Deputy Head of the opposition Ukrainian People's Party. Havdyda died from a blow to the head and his body was found one block from his apartment in Kiev. Friends and colleagues asserted that his death was a result of his political activities. Due to a lack of confidence in the Prosecutor General's office, which was investigating the incident, lawmakers established a commission to investigate Havdyda's death. At year's end, that parliamentary inquiry was at a standstill.

There were no indications that authorities were investigating the November 2003 death of Yuriy Bosak, a leader of the

opposition party Reforms and Order in Khmelnytskyi Oblast, who was found hanging in a forest. Relatives and colleagues continued to assert that the circumstances of his death were inconsistent with suicide and that Bosak was killed and then hanged because of his political activity.

The Prosecutor General's office continued to refuse to investigate the December 2003 death of Volodymyr Karachevtsev, head of Melitopol's independent journalists' union and a deputy editor at the independent newspaper Courier. Karachevtsev, who wrote frequently about corrupt local officials, was found hanging by his sweater on the handle of his refrigerator. Melitopol police insisted that, after drinking heavily, Karachevtsev accidentally strangled himself when he tripped and fell, catching his sweater on his refrigerator door handle; the official cause of death was listed as "mechanical asphyxia." However, findings by the local coroner contradicted police assertions that Karachevtsev was drunk at the time of his death.

The search continued during the year for two individuals allegedly involved in the murder of Ivano-Frankivsk Deputy Governor Mykola Shkriblyak. In April 2003, the Chernivtsi Oblast Appeals Court sentenced to life imprisonment both Shkriblyak's killer and the individual who organized the killing. According to Yuri Cherkasov, the former Chief of Interior Ministry's Department for Combating Organized Crime, the killer was an unidentified former officer of the Russian security services who lived in Ukraine. The authorities declined to provide information on the convicted organizer in the interests of the continuing investigation. Shkriblyak, who was running for a constituency Rada seat, was shot on the day before the 2002 parliamentary elections. There was speculation that Shkriblyak was killed because of his involvement in privatization issues related to the energy and fuel sector.

At year's end there had been no verdicts in cases related to the 2001 killing of Ihor Aleksandrov, the director of a Donetsk regional television station. According to an October 20 report from the Interfax news agency, a total of 12 people were being tried on a variety of charges related to the Aleksandrov murder and a subsequent attempted cover up. The cases were being heard by the Luhansk Court of Appeals at the direction of the Supreme Court, which expressed a lack of confidence in the Donetsk Court of Appeals, the original venue for the trials. The killing of Aleksandrov, who had aired a number of critical reports about Donetsk based politicians and was a noted critic of alleged corruption among local law enforcement authorities, had been attributed to his professional activities. In February, two police officers were arrested in Kramatorsk for "precipitating the death" of a key witness in the case.

During the year there were several major developments in the unresolved 2000 killing of prominent journalist Heorhiy Gongadze, which continued to be a subject of active domestic and international interest, including continuing accusations that senior officials in the Government were implicated. Gongadze's decapitated body was identified in November 2000, after his disappearance 2 months earlier. On June 19, the British newspaper The Independent published official documents, acknowledged by Prosecutor General's office to be genuine, indicating that Heorhiy Gongadze was under police surveillance shortly before his disappearance and death. The same newspaper reported that a former Kiev police officer, Ihor Honcharov, the purported leader of an organized criminal gang suspected of killing Gongadze, died in 2003, in police custody, from a combination of severe physical abuse and an injection of the drug Thiopental. Honcharov allegedly had information about the involvement of high level officials in the kidnapping and killing of Gongadze and had planned to testify in court about this involvement. The guard at the Lukyanivska detention facility who allegedly killed Honcharov was arrested in October.

The Prosecutor General's office announced on June 21 that it had in custody the self confessed killer of Gongadze, an alleged career criminal identified only as "Citizen K." However, the head of the parliamentary commission investigating the case, Member of Parliament (M.P.) Hryhoriy Omelchenko, told the press that "Citizen K" merely beheaded Gongadze's corpse at the direction of the police; according to Omelchenko, Gongadze was accidentally shot in the head as he struggled with police officers who were attempting to kidnap him. Gongadze's head was removed, Omelchenko asserted, because it contained a bullet that could lead to the identification of a police handgun as the murder weapon.

In March, Omelchenko's parliamentary commission concluded that President Kuchma, Volodymyr Lytvyn, then Presidential Chief of Staff, and Yuriy Kravchenko, then Interior Minister, were the instigators of Gongadze's kidnapping. The commission was unsuccessful in obtaining enough votes in the Rada to begin impeachment proceedings against Kuchma.

The Government continued to assert publicly that a full scale investigation into Gongadze's disappearance was continuing, but members of the media and the public seriously criticized the Government's handling of the case. The Government continued to dispute the authenticity of an audio recording that allegedly contained conversations between President Kuchma and other senior government officials discussing the desirability of Gongadze's death. Experts have judged another recording from the same source to be authentic.

b. Disappearance

There were no reports of politically motivated disappearances.

On January 13, the head of the parliamentary committee for freedom of speech urged the Interior Ministry to search for Vasyl Hrysyuk, a reporter for the newspaper Narodna Sprava in Lviv Oblast town of Radekhiv, who disappeared in December 2003. There was no indication during the year that the case was being actively pursued.

There were no indications that the authorities were continuing to investigate the 2002 disappearance of Oleksandr Oliynyk, an

election monitor from the NGO Committee of Voters of Ukraine (CVU), who disappeared from Kirovohrad approximately a week after the March 2002 Parliamentary elections, or the 2002 disappearance of Andriy Tatarchuk, Vice Chairman of the Reforms and Order Party of Odesa (Our Ukraine Bloc) and a former city council candidate.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

The Constitution prohibits such practices; however, reports that police regularly beat detainees and prisoners persisted, and opposition candidate Viktor Yushchenko accused the Government of attempting to kill him with poison.

Human Rights Ombudsman Nina Karpachova told the media that during her nearly 7 year tenure she has received approximately 12,000 complaints from persons who asserted that they had been tortured in police custody. In an August 2 special program on the opposition owned Fifth Channel television network, Karpachova acknowledged that torture of citizens by police officers remained a major problem.

The Fifth Channel program reported that police officers frequently beat detainees with rubber batons, hung them upside down and doused them with cold water. According to Fifth Channel, police officers tortured individuals in order to extract confessions or simply to get money; a lawyer interviewed on the program said he had been taken into custody and beaten until he agreed to pay approximately \$5,000 (26,000 Hryvnias/UAH) to a policeman. An October 2002 report by the European Committee for the Prevention of Torture (CPT) stated that individuals in detention ran a significant risk of physical mistreatment, including beating, electric shock, pistol whipping, and asphyxiation. Human rights lawyers also reported that requesting an attorney often led to a worse beating, and detainees at times were beaten until they waived their right to an attorney.

On August 6, police in Sumy Oblast, acting on direct orders from the Governor, attacked a large group of students protesting a university merger. An opposition M.P. who was on the scene said that police pushed students to the ground, kicked them, and beat them with truncheons (see Section 2.b.).

In a September 21 speech at the Rada, Presidential candidate Viktor Yushchenko accused the Government of attempting to kill him with poison. Yushchenko had suddenly fallen seriously ill in early September. In early December, doctors at a reputable medical clinic in Vienna determined that Yushchenko had been poisoned with dioxin, a diagnosis subsequently confirmed by Dutch specialists. The Government and a special parliamentary commission--chaired by an outspoken supporter of Yushchenko's opponent--disputed Yushchenko's allegation.

The media reported on March 10, that the police assaulted and seriously injured the son of a prominent opposition M.P. in retaliation for his father's political and trade union activities (see Section 6.a.). According to media reports, on March 7, Andriy Volynets, son of M.P. and Confederation of Free Trade Unions leader Mykhaylo Volynets, was taken from a bus stop in Kiev by a small group of individuals in police uniforms. They beat Volynets, put a plastic bag over his head, poured alcohol into his mouth, and then dumped him in the stairwell of a building in Kiev's Obolon district. Opposition M.P.s in the Rada called for the Prosecutor General's Office to open an investigation into the incident; at year's end, there had been no response from the Prosecutor General's office.

In March, the head of the Poltava Oblast police department resigned in connection with the torture and deaths of suspects in police custody in 2003. Only one of the four police officers suspected of involvement was detained. In June, a court in Zaporizhzhya began the trial of former police Lieutenant Colonel Serhiy Polovnikov in connection with an incident in February 2003, in which a suspect attempted to commit suicide by jumping through a fourth floor window of the police station. Allegedly, the suspect was driven to suicide by physical abuse that included the use of electric shocks. In April 2003, both feet of Oleksandr Lobanov, a prisoner at Prison 120 in Volnovakha, Donetsk Oblast, were amputated because of gangrene allegedly resulting from injuries sustained during a severe beating by riot police during a riot control exercise at the prison. Prison officials reportedly forced Lobanov to sign a statement that he had injured his feet himself while exercising in the prison yard. The Penal Department and prosecutor's office opened an investigation on this case, although no results were made public by year's end.

The law prohibits the abuse of psychiatry for political and other non medical reasons and provides safeguards against such abuse; however, on a few occasions, according to human rights groups, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The confinement often resulted from the corruption of psychiatric experts and court officials. Persons diagnosed with mental illness risked being confined and treated forcibly, declared not responsible for their actions, and stripped of their civil rights without being present at the hearings or notified of the ruling. According to the Ukrainian Psychiatric Association, the Health Care Ministry did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

Despite extensive legislation to protect the rights of service members and the existence of regulations governing relationships among military personnel, reports continued during the year of harsh conditions and violence against conscripts in the armed forces. Senior conscripts often beat recruits, sometimes to death, and forced them to give up money and gifts that they received from home. According to human rights associations, garrison prosecutors often did not investigate complaints of physical harassment. Punishment administered for committing or condoning such activities was insufficient to deter further abuses. Although military officials reported that there were no deaths due to soldier on soldier physical violence, human rights groups,

including the Association of Soldiers' Mothers, reported that violent hazing continued to be widespread (see Section 1.a.). They had reported in 2002 that the Office of the Prosecutor General opened 129 criminal cases pertaining to violent hazing. It is unlikely that further information will be available on the progress, if any, in these cases.

Police abused Roma and harassed and abused dark skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them (see Section 5). On May 10, according to testimony given to the Roma NGO, Roma European Rights Center that could not be separately corroborated, an individual identified only as "Mr. S.G.," reported that in the days following the May 6 theft of two horses in the area of Lutsk, police terrorized the 30 family Romani community in the neighboring Prilutsk village. Mr. S.G. reported that several members of the community, including teenage Romani boys, were taken to the police station and severely beaten. Similarly, in the town of Kivertsy, Mr. S.G. had been informed that two young Romani men were taken to the police station and beaten almost to death before they were released. Mr. S.G. reported that when he visited the Lutsk District Police Department to discuss these matters, the Deputy Chief of Police threatened him and physically mistreated him.

Prison conditions improved somewhat as a result of reforms in the penal system. Prison officials reported that, due in part to the decriminalization of many offenses, there was a reduction in the number of inmates in prison, which eased overcrowding. Nevertheless, prisons were sometimes overcrowded or lacked adequate sanitation and medical facilities.

Although information on the physical state of prison walls and fences, as well as on pretrial detention blocks, is officially considered to be a government secret, the press reported freely about harsh prison conditions.

Conditions in pretrial detention facilities were harsher than in low and medium security prisons. There were reports that inmates in pre trial facilities were sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding was more common in these centers; their total capacity was 36,000 but 39,021 detainees were held in them as of September 1, according to the State Penal Department (SPD).

Human Rights Ombudsman Karpachova expressed indignation over conditions in temporary detention centers, particularly Crimea, and in April it was reported that the Prosecutor General's Office was concerned about poor conditions in pretrial detention facilities nationwide.

The SPD, in cooperation with the NGO community, implemented some programs for the professional development of prison and police officials. According to the SPD, as of September 1 no criminal proceedings involving torture or mistreatment of prisoners had been opened against SPD employees; however, as of September 1, six criminal cases had been opened against employees for unspecified "non human rights related" offenses. No employee of the penitentiary system was disciplined for improper treatment of detainees; however, 420 employees were disciplined in the first 8 months of the year for "serious flaws in their work and violation of work ethics," according to the SPD.

The 2003 Criminal Penal Code was intended to regulate prison life and provide safeguards against the mistreatment of prisoners. Officials stated that it was still too early to evaluate the code's effectiveness, but maintained that NGOs, international experts, prisoners, and prison employees had reacted favorably to it. In accordance with the new code, all new inmates were required to undergo psychological screening, and prison administrators were required to develop a plan for the rehabilitation and eventual release of inmates. Correctional institutions for adults were also subdivided into three categories: Minimum, medium, and maximum security. Also in keeping with the new Code, deprivation of the right to receive a parcel is no longer used against prisoners as a punishment. Prisoners are permitted to receive much larger parcels than in the past, which may include food items, medicine, books, writing implements, clothing, shoes, and personal hygiene items.

According to official statistics from the SPD, there were 464 deaths in prisons during the year: 438 due to illness, 20 suicides, 2 homicides (1 murder and 1 manslaughter), and 4 lethal traumatic injuries. In addition, there were 88 deaths in pretrial facilities: 82 due to illness and 6 to suicide (See section 1.a.) Tuberculosis in prisons continued to be of concern; however, officials stated that mandatory screening of all new inmates for the disease of all new inmates had reduced infection rates. Inmates with tuberculosis were isolated from the general population and treated at one main prison hospital complex in Kharkiv Oblast. Almost 25,000 individuals reportedly were held in prison cells with neither windows nor toilets.

Men and women were held in separate facilities, and juveniles were held separately from adults. Additionally, pretrial detainees were always held separately from convicted prisoners. The law does not recognize political prisoners as a separate category of detainee.

The Government continued to allow prison visits from human rights observers and generally granted full access to prison facilities; however, some monitors reported that at times it was difficult to obtain access to prisons to visit specific prisoners, and there were instances in which they were not allowed full access to prison facilities. The SPD maintained, however, that there had been no instances of domestic or international human rights groups being denied access to pretrial detention facilities. Prisoners were permitted to file complaints with the Human Rights Ombudsman about the conditions of detention, but human rights groups reported that prisoners were sometimes punished for doing so.

At present, two Corrective Labor and Treatment Centers for alcoholics remain subordinated to the SPD.

The Ukrainian Red Cross Society was granted unimpeded access to at least two prisons during the year, in Melitopol and Kovel. At those facilities, Red Cross representatives conducted an HIV/AIDS/TB awareness campaign for teenage inmates. The Red Cross also provided the teenagers with vitamin supplements and hygiene kits.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention remained problems.

The Minister of Internal Affairs, who is responsible for the police, is a member of the Cabinet of Ministers, while the SBU enjoys special status within the executive branch and reports directly to the President. The State Tax Administration, which is accountable to the President and the Cabinet of Ministers, also has law enforcement powers, which it exercises through the tax police. The Office of the Prosecutor General prosecutes criminal cases and is responsible for enforcement of court decisions in criminal cases. In July 2003, legislation providing for civilian control over the army and law enforcement agencies was enacted and an implementation plan approved. The law authorizes parliamentarians to conduct investigations into national security and defense issues, including public hearings. The law also significantly broadens the authority of the Human Rights Ombudsman to initiate investigations pertaining to the military's activities, as well the activities of law enforcement bodies. The law also assigns to the Audit Chamber of Ukraine control over national defense and security budget allocations.

Police corruption was a problem during the year. For example, a 2003 law prohibits the police from stopping vehicles and levying immediate fines, which officers frequently pocket to supplement their low salaries; only courts have the right to impose such fines. That law had an increasing deterrent effect on the police, who no longer could legally collect spot fines after stopping vehicles for alleged traffic violations, although these "traffic stop shakedowns" still regularly occurred.

Authorities made some effort to end police abuses, including taking disciplinary action against law enforcement authorities who committed them; however, impunity remained a serious problem. Police were seldom prosecuted for misbehavior. Ombudsman Karpachova suggested that those police officers who were charged and convicted received light or suspended sentences, primarily because of what she called the "corporate inter dependence" between law enforcement officials and the judicial branch.

Legislation passed in July 2003 strengthened the role of the Human Rights Ombudsman and of M.P.s in investigating human rights violations, providing for the imposition of fines against individuals seeking to hinder their work.

By law, the authorities may detain a suspect for 3 days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days. Suspects who believe that further investigation may lead to their immediate exoneration may petition the court for an additional 15 day detention. The law further provides that pretrial detention may not last more than 2 months. In cases involving exceptionally grave offenses, the Prosecutor General may petition a judge of the Supreme Court to extend the period of detention to 18 months. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires that officials notify family members immediately concerning an arrest, but they often did not do so in practice.

The Government occasionally employed such charges as criminal libel or tax evasion to detain persons (usually opposition activists or journalists) who were openly critical of the Government or challenged the interests of powerful business or political figures close to the Government (see Section 2.a.).

On February 9, it was reported that the Lviv Tax Administration was conducting numerous tax inspections of businesses associated with the opposition.

The press reported on March 10 that the Supreme Court annulled the tax evasion charges against jailed banker Borys Feldman and commuted his 9 year prison sentence to 5 years, in effect, to time served. Feldman, the former vice president of Bank Slovyansky (which managed some of prominent opposition M.P. Yuliya Tymoshenko's business interests), was originally convicted of tax evasion and financial mismanagement. He was released on June 14.

On multiple occasions in August and September, tax police harassed a main financial backer of opposition candidate Viktor Yushchenko, and billboard companies in Vinnytsya were warned by the local authorities that sale of ad space to the Yushchenko campaign would immediately trigger an inspection by the tax police.

On March 19, the Office of the Prosecutor General closed a criminal case that had been opened in March 2003 against former Deputy Prime Minister of Agriculture Leonid Kozachenko. Kizachenko had been charged with bribery and abuse of office. He claimed that the charges were politically motivated. In dismissing the charges, the authorities stated that the criminal proceedings against Kozachenko had had been a mistake. While detainees were frequently released from pretrial detention with travel bans, Kozachenko was only released, on bond, after several parliamentary appeals.

On May 20, the press reported that the Prosecutor General had opened a criminal case against opposition M.P. Yuliya Tymoshenko for attempting to bribe a judge. The government case was based on the testimony of former Tymoshenko aide Volodymyr Borovko. On June 10, the Prosecutor General's office submitted a request to the Rada to strip Tymoshenko of her parliamentary immunity from criminal prosecution. The Rada did not vote on the request and simply returned it to the Prosecutor

General's office. Separately, the trial of Tymoshenko's father in law and a colleague remained ongoing in Kiev at the end of the year.

In October, police detained a number of student and youth leaders in the course of unauthorized raids on the offices of a number of youth and student organizations, including the activist pro democracy NGO Pora. The individuals were later released (see Section 2.b.).

Although the Criminal Procedures Code provides for the imposition of monetary bail, bail was rarely used; many defendants could not pay the monetary bail amounts imposed by law. Instead, courts imposed restrictions on travel outside a given area as an alternative measure to pretrial confinement.

The law stipulates that a defense attorney must be provided without charge to an indigent detainee from the moment of detention or the filing of charges, whichever comes first; however, in practice this often did not occur. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy detention under extremely poor conditions. Attorneys often refused to defend indigents for the low government fee. While in custody, a suspect or a prisoner is allowed by law to talk with a lawyer in private; however, human rights groups reported that prison or investigative officials occasionally denied the client attorney privilege. To protect the defendant, each investigative file must contain a document signed by him or her attesting that the charges against him, his right to an attorney, and his right not to give evidence against himself or his relatives have been explained to him; however, officials sometimes verbally and physically abused defendants to get them to sign this document. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many remained unaware of these safeguards.

The police arbitrarily detained persons, particularly dark skinned persons, for extensive document checks and vehicle inspections (see Sections 1.f. and 5).

Lengthy pretrial detention was a problem. By law, a trial must begin no later than 3 weeks after criminal charges have been filed formally with the court, but this requirement rarely was met by the overburdened court system. Months, or, at times, years, may pass before a defendant finally is brought to trial, and the situation did not improve during the year (see Section 1.e.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, the judiciary was subject to considerable political interference from the executive branch, often in the form of phone calls to judges by senior government officials, including Presidential Administration Chief of Staff Viktor Medvedchuk. There were exceptions, notably the December 3 Supreme Court decision invalidating the November 21 runoff election. The judiciary also suffered from corruption and inefficiency. The courts were funded through the Ministry of Justice (MOJ), which controlled the organizational support of the courts, including staffing matters, training for judges, logistics and procurement, and statistical and information support.

The judiciary lacked sufficient staff and funds, which engendered inefficiency and corruption and increased its dependence on the executive, since the judicial system received all its funding from the State Judicial Administration. On March 30, the European Court for Human Rights (ECHR) ruled that the country was failing to provide an effective way to secure defendants' rights to a fair trial in a reasonable length of time. In a report to the Rada in April 2003, the Ombudsman for Human Rights observed that individuals' ability to protect their rights in court remained limited.

A lack of compliance with court decisions in civil cases also undermined the authority and independence of the judicial system. The State Executive Service was responsible for enforcing most civil decisions, and the number of cases referred to it continued to grow. Provisions calling for criminal punishment for noncompliance with court decisions rarely were used. Compliance was particularly poor when a decision clashed with government interests. The Chairman of the Supreme Court, the chairmen of regional courts, and the chairman of the Kiev municipal court (or the deputies of these officials) have the authority to suspend court decisions, which led to interference, manipulation, and corruption.

There were credible reports that the Government abused its authority over officers of the court by selectively charging and dismissing politically unsympathetic judges. In 2003, the High Council of Justice, allegedly under government pressure, requested that the Rada dismiss Yuriy Vasylenko, an independent judge of the Kiev Appeals Court and critic of President Kuchma. In October and November 2002, Vasylenko had opened two criminal cases against Kuchma that were subsequently dismissed. The Council accused Vasylenko of violating his oath by unlawfully opening these criminal cases. In August, Vasylenko, citing his weariness from government harassment, stepped down from the bench and retired, calling the High Council of Justice's request to the Rada "political revenge." On December 23, the Rada formally rejected the request to dismiss Vasylenko, who has formed an NGO dedicated to nationwide judicial reform.

The law provides for a unified system of courts consisting of a Constitutional Court, a system of courts of general jurisdiction that includes the Supreme Court and specialized commercial courts, and military courts. General jurisdiction courts are organized on four levels: Local courts, regional appellate courts, specialized high courts (the High Commercial Court), and the Supreme Court. Commercial courts were intended to operate as specialized courts within the single unified system of courts. As a result, the Supreme Court may review their judgments, including those rendered by the High Commercial Court. Military courts are

specialized courts that hear only cases involving military personnel.

By law, the President has the authority, with the agreement of the MOJ and the Chair of the Supreme Court or of a corresponding higher specialized court, to establish and abolish courts of general jurisdiction. The President is empowered to determine the number of judges within the courts, upon the recommendation of the State Judicial Administration (SJA) and with the agreement of the Chair of the Supreme Court. He is authorized to appoint and remove chairs and deputy chairs of courts for 5 year terms (upon submission of the Chair of the Supreme Court, based on recommendation of the Judicial Council), and to establish appellate commercial and appellate administrative courts. The President, upon the recommendation of the Prime Minister and concurrence by the Judicial Council, appoints the head of the SJA.

A Judicial Academy trains new judges and continues the education of sitting judges; it graduated its first group of judges in April 2003.

Regional courts, including the Supreme Court of Crimea and the Kiev and Sevastopol city courts, serve as appellate courts for the lower level courts. They may examine evidence independently in a case, call for additional witnesses or evidence, and overrule the judgment of a lower court.

The Constitutional Court consists of 18 members appointed for 9 year terms in equal numbers by the President, the Parliament, and the Congress of Judges. The Constitutional Court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The President, at least 45 M.P.s, the Supreme Court, the Ombudsman, and the Crimean legislature may request that the Constitutional Court hear a case. Citizens may apply to the Constitutional Court through the Ombudsman, and they started to exercise this right in selected cases. In some limited cases, the Constitutional Court can interpret law for individual citizens, when the applying citizen provides compelling proof that a constitutional provision was violated or that different government bodies interpreted it differently. Human rights groups stated that the Constitutional Court generally maintained a balance of fairness; however, a number of decisions made during the year led observers to charge pro presidential bias.

The Supreme Court is the country's highest appellate body. Human rights groups, the media, and legal watchdog organizations noted that, in contrast to the Constitutional Court, the Supreme Court continued to show increasing independence during the course of the year. This trend was highlighted by the Court's December 3 decision to invalidate the results of the November 21 presidential runoff election because of massive fraud.

The Constitution includes procedural provisions intended to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, pending the passage of legislation to implement these constitutional provisions, a largely Soviet era criminal justice system remained in place, which limited these rights. While the defendant is presumed innocent, conviction rates have changed little since the Soviet era, and nearly all completed cases resulted in convictions.

There were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences. For example, on January 9, the press reported that the Luhansk Court of Appeals sentenced a judge from Slovyansk to 6 years in prison for abuse of power, forgery, and bribery. In April 2003, the head of the Zaporizhzhya District Court confessed to accepting a bribe of \$2,500 (approximately 13,000 UAH) for reducing a defendant's murder sentence by 5 years; an investigation of the incident was ongoing at the end of the year.

The law provides for broad use of juries; however, a system of juries had not been implemented and as a result juries were only used in a limited number of cases. Most cases were decided by judges who sit singly, occasionally with three public assessors (lay judges or professional jurors with some legal training), or in groups of three for more serious cases.

The Office of the Prosecutor General practiced selective prosecution and initiated investigations against the political or economic opponents of the President and his allies (see Section 1.d.). The Prosecutor General also ignored parliamentary and court requests for investigations into high ranking persons if the accused were presidential allies.

Criminal groups routinely used intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives; however, the unit had not begun operation by year's end, and trial participants were vulnerable to pressure. Because of lack of funding, a witness protection law was also in abeyance. The law provides that the names and addresses of victims and witnesses may be kept confidential if they request protection due to fear for their lives. Unlike in previous years, there were no reports of violence against judges.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions; however, in practice authorities infringed on citizens' privacy rights. By law, only courts may approve warrants for searches of residential properties and wiretaps; however, prosecutors have the right to issue warrants for searches of nonresidential properties (see Section 1.e.).

By law, the SBU may not conduct intrusive surveillance and searches without a court issued warrant. The Office of the Prosecutor General has the constitutional responsibility to ensure that law enforcement agencies, including the SBU, observe the law; however, the extent to which the Prosecutor General used his authority to monitor SBU activities and to curb excesses by security officials was unknown. The Constitution provides citizens with the right to examine any dossier on them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation; however, necessary implementing legislation had not been passed, and the authorities did not respect this right in practice.

The Government arbitrarily monitored the private communications and movements of individuals. For example, on January 23, opposition M.P.s complained to the newspaper *Ukraina Moloda* that their phones were tapped and that they had been put under surveillance. A leading human rights group estimated that courts issued at least 40,000 warrants during the year for phone taps.

The press reported on February 18, that SBU Major General Valeriy Kravchenko, a security officer at the Ukrainian Embassy in Berlin, had accused the SBU of conducting surveillance on opposition parliamentarians and senior government officials during their visits abroad. The Government denied these allegations.

On August 10, opposition presidential candidate Viktor Yushchenko asserted to the press that he was illegally subjected to plainclothes police surveillance during his visit to Ai Petri Mountain near Yalta. Yushchenko called on the Prosecutor General's Office to open criminal charges against the police officers involved in the incident; however, no charges were filed, and the Government asserted that the surveillance was intended to protect Yushchenko from potential harm. On September 13, Our Ukraine M.P. Valeriy Asadchev told the press that the Government had sent secret instructions to all oblasts requiring local security services to put foreign election observers under surveillance and to report to the Presidential Administration about the observers' activities. On several occasions in October, Rada Speaker Volodymyr Lytvyn complained to the press about police surveillance of him and his family.

The law gives the SBU broad powers to monitor Internet publications and email. Telecommunications operators are required to install at their own expense equipment allowing "authorized agencies" to monitor Internet activity conducted over their services. The stated goal of the requirement was to fight corruption and further the country's integration into the European Community; however, human rights organizations expressed concern that this network increased the SBU's ability to monitor the activities of citizens without cause. The Internet Association of Ukraine, a group of six Kiev based ISPs, complained in a 2003 report to the OSCE that enactment of monitoring legislation could infringe on individuals' rights to privacy of correspondence under existing law.

Some NGOs reported that authorities had opened and searched their mail at times during the year. The SBU also monitored the activities of certain NGOs active in democracy development projects. Journalists whose reports were critical of the Government or who covered opposition politicians and NGOs that engaged in nonpartisan political activity, reported that SBU agents frequently followed them and that their telephones and offices were wiretapped (see Section 2.a.). In October, authorities conducted unauthorized raids on the offices of a number of youth and student organizations, including Pora (see 2.b.).

A new residence registration system took effect during the year, following the December 2003 passage of the law "On Freedom of Movement." The new system simplified existing procedures by requiring only that individuals who move to a new place of residence deregister at their old address, fill out a declaration listing their new address, pay a \$.16 (.85 UAH) processing fee, and complete these procedures within 10 days. The new system does not limit Ukrainian citizens to one address at which they may be registered. A person may only have one permanent address, but may register temporarily at other locations (for example, at a university if a person is a student).

The Government and some human rights groups depicted the new system as a major step forward from the Soviet era "propyska" system. They noted that it was far simpler and permitted individuals to live, work, and receive services anywhere in the country; however there were critics. For example, the Minister of Justice complained to the newspaper *Dzerkalo Tyzhnya* that similarities remained between the new system and the propyska system, specifically noting that the police remained in charge of residence registration.

Section 2

Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the authorities often did not respect these rights in practice. During most of the year, the authorities took a direct role in instructing the media on events and issues it should cover and how they should be covered. However, toward the very end of the presidential election campaign in November, many media outlets began to ignore government direction and covered events in a more objective, professional manner. This aptly named "journalists' rebellion" gained significant momentum on November 25, when Ukrainian National Television (UT 1) sign language interpreter Natalya Dmytruk departed from her approved script and informed viewers that the official election results announced on November 23 were false, adding that "Yushchenko is our President." In the wake of the Orange Revolution, top media watchdog organizations asserted that the media were generally more free and politically diverse than at any time in the country's modern history.

During most of the year, authorities continued to interfere with news media by intimidating journalists through the use of libel laws, license revocations, and by investigations on tax matters or fire and health code violations; in some cases, these measures had the effect of shutting down independent media sources. The authorities also took steps to strengthen their control over the broadcasting sector, although during the Orange Revolution, the authorities proved unwilling or unable to use their control to determine the political content of most national and many regional broadcasts.

For most of the year, the authorities also restricted freedom of speech through indirect means; for example, by influencing publishing houses to refuse or limit the publication of materials critical of the authorities.

There were numerous instances when authorities limited freedom of the press. Government interference often took the form of direct intervention, such as blocking radio and television frequencies, confiscation of opposition newspapers and pamphlets, refusal to provide television or radio airtime to opposition politicians, and denying public venues for opposition rallies.

The NGO Freedom House rated the press as "not free," as it had done in 2003, because of state censorship of television broadcasts, continued harassment and disruption of independent media, and the failure of authorities to adequately investigate attacks against journalists. On May 3, the group Reporters Without Borders again cited President Kuchma as an "enemy of the press."

According to the website of the State Committee on Television and Information Policy, at year's end there were 20,903 registered print publications and 800 television broadcasters in the country. Despite government pressure and media self censorship, the numerous newspapers and periodicals on the market, each espousing the view of its respective sponsor, provided a variety of opinions.

Wealthy investors pursuing their own political and economic interests financed many major newspapers. These newspapers often favored the Government. Their strong financial backing gave these newspapers an advantage over smaller, more independent, newspapers.

Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary source of news for most citizens, were either state owned or owned by oligarchs and powerful business interests. There were six national television stations. State run television had the widest geographic coverage, but low viewership. Most other television stations were associated with political parties or powerful business interests. While such groups often did not agree on particular issues, they generally rallied behind the pro presidential position on key issues dividing the Government and the opposition. The major exception during most of the year was the opposition owned Fifth Channel, which, according to some observers, was less partisan and more objective. Fifth Channel's geographic coverage was limited due to government harassment and restrictions, but its viewership was strong; it played a critical role in keeping Ukrainians informed about developments during the presidential elections and the Orange Revolution. The television and radio stations, Era, also began to provide objective news coverage in the fall, and were permitted by the authorities to operate.

Some journalists were subjected to physical attacks during the year that may have been related to their professional activities; however, unlike in 2003, there were no reports of deaths of journalists in connection with their professional activities. The national affiliate of Reporters Without Borders reported that 3 journalists died in connection with their professional activities within the country in 2003, and 34 were subjected to aggression and intimidation.

On January 12, unknown assailants fired shots at Oleh Yeltsov, the editor of the investigative Internet newspaper "Criminal Ukraine." Yeltsov said that the attack may have been linked to articles his newspaper published about corruption at Kiev University.

On January 21, the media reported that journalist Maksym Birovash received threats to his life because of an article he published in 2003 relating to the trafficking of Ukrainian women to Israel for prostitution.

On August 19, unidentified attackers used Molotov cocktails to destroy an office at the independent Lviv newspaper Postup. The newspaper's editor said that the newspaper's coverage of two corrupt local officials, one of whom was allegedly involved in an illegal construction project in one of the Lviv's parks, likely prompted the attack. The police were continuing to investigate the incident.

According to the Committee to Protect Journalists (CPJ), on November 29, unidentified men beat Yevgeny Savchenko, a correspondent for the newspaper Luhanchane in the city of Luhansk, when he tried to prevent them from taking another journalist's video camera at a local campaign rally. Assailants also beat reporter Anna Nizkodubova while she tried to telephone her editors at the Ukrainian News Agency to file a story from the same rally, according to local press reports.

In July, Tatyana Goryacheva, editor of the independent newspaper Berdyansk Delovoi, was forced off the road by masked men who threatened to kill her if she continued her positive coverage of opposition presidential candidate Viktor Yushchenko. Goryacheva had been attacked in 2002 by unknown assailants who threw acid in her face, and again in 2003 by unidentified men who threatened to kill her if she pressed for an investigation of the 2002 incident. At year's end there had been no further

developments in these cases.

In September, the Prosecutor General's office announced that Volodymyr Yefremov, former Director of the Dnipropetrovsk based 11th Channel and Regional Representative of Reporters Without Borders, "violated traffic safety rules" and was to blame for the accident which killed him in July 2003. Some media claimed that Yefremov died under suspicious circumstances, as he claimed to be under police surveillance prior to his death, had received suspicious phone calls, and had expressed a fear of "yet another tragic car accident."

There were no further developments in any of the other reported attacks on journalists from 2002 or 2003.

On March 15, the media reported that President Kuchma had instructed the Prosecutor General's office, the Interior Ministry, the Tax Administration, and the Ministry for Emergency Situations to impose a moratorium on inspections of the media prior to the presidential elections. On March 16, the Parliament passed a similar resolution. Subsequently, the head of the Tax Administration instructed officials to suspend all tax inspections during the presidential election campaign period. However, media NGOs reported that the moratorium was not fully observed. For example, the media reported on October 5 that the tax police conducted 2 days of intense and intrusive inspections of the Presa Company, which sells the independent newspaper Vysoky Zamok at its kiosks in Lviv. In addition, the authorities ordered the independent newspaper Lvivska Hazeta to pay a large fine after it published a series of articles alleging corruption in the local tax administration.

There were no further developments in the ongoing battle between the authorities and Volodymyr Boyko, editor of the Internet newspaper Obkom.

In February, a judge ordered the closure of the pro opposition newspaper Silski Visti, for fomenting inter ethnic hatred by publishing at least two anti Semitic articles (see Section 2.c.). The authorities reportedly were seeking to close a number of other newspapers for similar reasons.

The law prohibits the authorities from interfering with the professional activities of journalists and prohibits the establishment of any body to control media information; however, credible allegations continued to surface that the Presidential Administration gave media publishers specific instructions on events to cover and how to cover them, as well as subjects not to cover. These instructions, known as "temnyky," reportedly included instructions for the media to portray President Kuchma favorably and avoid discussion of events that cast doubt on his credibility. After the November 21 runoff of the Presidential elections, many journalists declared that they would no longer be guided by temnyky. Following the Orange Revolution, many top Ukrainian media watchdog organizations asserted that temnyky were no longer being issued to media organizations by the Government.

The courts, as well as such mechanisms as health, fire, and safety inspections, were also used to intimidate the media for most of the year.

The Government at times directed key businesses either to purchase advertising from regional television stations or to withdraw from advertising contracts, depending on the news coverage the stations offered.

The influential National Council for Television and Radio Broadcasting, comprised of an equal number of Rada members and presidential appointees, issues licenses and allocates broadcasting time. Council decisions continued to show bias in favor of business interests closely allied politically with the Government. In March, the Parliament passed a resolution criticizing the Council for inadequately performing its duties.

Policy and practice regarding licensing placed state owned channels at a competitive advantage. All broadcasters were required to obtain licenses, but private and foreign companies were required to obtain additional licenses in order to establish and operate their own transmission facilities. Nongovernmental broadcast media were therefore required to obtain two licenses one for a transmitter and one for a frequency. Moreover, although state owned and independent channels were subject to the same rates for the majority of broadcasting fees, the Government rarely enforced fee payments for state owned channels.

Although a district court ruled in 2003 against the Council's decision to deprive the Kiev based television company UTAR of its license, the Court's ruling was not enforced during the year and UTAR remained off the air. The press had speculated that opposition leader Yuliya Tymoshenko provided financial support to the station and that the Council's decision had been politically motivated.

Early in the year, the Government and its agents moved in a coordinated way to silence broadcasts by Radio Liberty (RL) ahead of key local and national elections. The media reported on January 20 that unnamed supporters of the pro Government party SDPU(o) had acquired Radio Dovira, an FM station that was broadcasting RL's news and current affairs programs. The media reported that the editor of Presidential Chief of Staff Viktor Medvedchuk's newspaper "2000," Serhiy Kichihin, was appointed editor of Radio Dovira and moved quickly to drop RL's programming. Kichihin claimed that the move was motivated by economics, not politics; however, opposition politicians and media watchdog groups disputed that assertion, calling the Kichihin's decision a clear effort to eliminate independent sources of information for Ukrainian citizens.

On February 28, Radio Kontyent began re broadcasting RL programming; on March 1, the station announced that its signal

was being jammed in Kiev. Radio Kontyent owner Serhiy Sholokh said that he had been warned by unnamed political forces not to rebroadcast RL. In late February, he fled the country fearing arrest and bodily injury. On March 3, Radio Kontyent's transmitter was turned off and its transmission equipment was confiscated. Government officials justified the confiscation by saying that since it did not have a license, Kontyent had been broadcasting illegally (a 2001 court decision to give its license and frequency to Radio Onyx remained under appeal, and Kontyent had been allowed to continue its broadcasts until it began to re-broadcast RL).

According to multiple press reports, on March 13, the Zakarpatska Regional Transmitting Center (ZRTC) turned off the transmitters of the Television station M Studio, which generally supported the opposition, for failure to pay its debts. However, according to March 13 reports by Forum and Ukrainska Pravda, as well as March 18 and 23 stories in Ukraina Moloda, M Studio had no debts to ZRTC, while the state owned UT 1 and UT 2 channels, which owed huge sums to ZRTC, continued to operate. M Studio was allowed to recommence broadcasting the day following the controversial April 18 Mukacheve mayoral election (see Section 3).

An independent content analysis conducted in February by the Ukrainian Press Academy and the Sociology Institute of the National Academy of Science indicated that the news was increasingly politicized and primarily presented pro administration views. There was a marked imbalance in the coverage of candidates on national television and radio channels during the first and second rounds of the presidential election campaign (see Section 3). Opposition candidates received limited and often negative coverage at the national level; however, opposition candidates had more success in obtaining access to smaller local and regional television channels. The situation changed significantly for the better between the November 21 runoff election and the December 26 repeat runoff. The media, particularly the national television channels, covered both presidential candidates much more fairly and professionally.

The Kiev based Independent Media Trade Union, formed in 2002 to resist censorship and protect journalists from job loss or other forms of harassment, played an important role in helping organize the "journalists' rebellion" during the Orange Revolution, which led to more fair and professional coverage of the presidential campaign.

Although there was no criminal penalty for libel, the use or threat of civil libel suits continued to inhibit freedom of the press, and the number of cases brought during the year reportedly increased. According to the media watchdog NGO, Institute for Mass Information (IMI), at least 15 libel actions were brought against the mass media and journalists during the year. Whether such a suit is successful or not, lower courts may order that a publication's accounts be frozen pending an appeal of a civil libel case, a step that can be financially ruinous for many publications. Government entities, in particular, used civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press. According to IMI, government entities initiated 90 percent of the suits brought during the year.

The Civil Code, enacted during 2003 but implemented during the year, provides that negative information about a person is considered untrue unless the person who spread the information proves to the contrary. Journalists and legal analysts have expressed concern that this code had a negative impact on freedom of speech and the press.

Despite laws that both limit the amount of damages that may be claimed in lawsuits for libel and free the press from responsibility for inoffensive, non factual, judgments, including criticism, the Office of the Human Rights Ombudsman indicated concern over the "astronomical" damages awarded for alleged libel. For example, in January, the Odesa newspaper Pravoye Delo complained that it had been sued for libel in connection with articles it had published that were critical of police and the local security service. One of the suits was seeking approximately \$38,400 (200,000 UAH) in damages.

On April 23, pro-government representatives filed two libel lawsuits against the independent Internet news site Ukrainska Pravda. The suits sought approximately \$3,846 (20,000 UAH) in damages, plus the immediate confiscation of the newspaper's assets in lieu of damages for several articles.

On May 26, a lawyer with ties to the Presidential Administration and the editor of a pro government newspaper in Cherkasy filed a libel lawsuit against the opposition supporting newspaper Ukraina Moloda. The lawsuit demanded that the newspaper publish a retraction for a "libelous" interview and pay compensation of approximately \$1,921 (10,000 UAH); the plaintiff also asked the court to freeze the newspaper's assets during the litigation. Ukraina Moloda maintained that the charges had no merit and that the spurious lawsuit was simply a government attempt to shut the newspaper down.

The print media, both independent and government owned, sometimes demonstrated a tendency toward self censorship on matters that the Government deemed sensitive. According to a poll taken in 2003, many journalists believed that criticism of the president (71 percent), local authorities (69 percent), the Presidential Administration (68 percent), or criminal organizations (77 percent) would result in negative consequences such as psychological pressure, economic sanctions, and physical attacks. Although private newspapers were free to function on a purely commercial basis, they were subject to various pressures, such as dependence on political patrons who could facilitate financial support from the State Press Support Fund and close scrutiny from government officials, especially at the local level. The dependence of some of the press on government patronage inhibited criticism, particularly at the local level. This type of pressure was particularly acute prior to, and during, the presidential election campaign and the first runoff.

The SBU had broad powers over the media in regard to the publication of state secrets, which included information on executions, the physical state of prison infrastructure, and pretrial detention facilities; however, journalists reported that, in

general, they were able to report about harsh prison conditions without any inhibition (see Section 1.c.).

There were instances in which the authorities or "unknown persons" likely to have been associated with the authorities, restricted, banned, or destroyed some publications critical of governmental entities or officials. For example, on January 10, police in Zaporizhzhya detained a truckload of Bez Tsenzury newspapers that pro opposition elements had planned to distribute. Officials stated that the truck and its cargo were held pending the identification of the driver; however, it was alleged that one of the police officers involved said that the truck had been detained because the newspaper had published articles critical of President Kuchma.

On February 26, in Brody, unidentified attackers broke into a warehouse and set fire to 5,000 copies of "Narcissus" and "Time of Mean Power," books written by former M.P. Dmytro Chobit that were highly critical of Presidential Administration Chief of Staff Viktor Medvedchuk. On May 15, unidentified assailants burned down the printing facility of the company that published the books.

In a September 18 article entitled "Litsa Was Guillotined," the newspaper Dzerkalo Tyzhnya published the text of a statement by the Dnipropetrovsk branch of the SBU in which it complained about the "biased" reporting of the independent newspaper Litsa and other newspapers, and indicated that the SBU had taken "preventive measures" against what it viewed as "falsified reporting." According to the Dzerkalo Tyzhnya article, these measures included SBU efforts to intimidate Litsa's printers and, on September 14, the physical destruction of half of Litsa's 33,000 copy print run.

The Government did not restrict access to the Internet; however, it had the ability to monitor all Internet publications and e mail (see Section 1.f.). Human rights observers remained concerned about the Government move in July, 2003, to take control of the country's domain suffix.

While major universities were state owned, they operated for the most part under full autonomy; however, academic freedom was an underdeveloped and poorly understood concept. Nepotism and bribery reportedly were common during entrance exams and also influenced the granting of degrees. Administrators of universities and academic and research institute directors possessed the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, and directly terminating them. Restrictions by the Communications Ministry on the mailing of scientific documents also caused concern. The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research. Private and religiously affiliated universities operated without any reported state interference or harassment.

b. Freedom of Peaceful Assembly and Association

The Constitution and law provide for freedom of assembly; however, there were instances when the authorities infringed upon this right. The Constitution requires that demonstrators inform the authorities of a planned demonstration in advance, and the law on public assembly stipulates that organizations must apply for permission to their respective local administrations at least 10 days before a planned event or demonstration. Under the law, demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice, unlicensed demonstrations were common. They generally occurred without police interference, fines, or detention, but there were some significant exceptions. During the massive nationwide demonstrations that followed the fraudulent November 21 presidential runoff election, the authorities generally respected the right of the people to peacefully protest. There were credible reports that unnamed senior Government officials ordered that force be used on November 28 to disperse protesters in Independence Square, but those orders were not carried out, reportedly because of a split in the security forces.

The Donetsk municipal government banned a planned May 1 gathering of the opposition electoral bloc Our Ukraine. Officials claimed that it was illegal to conduct campaign events more than 120 days prior to the presidential elections, although other groups were permitted to hold similar events.

On May 5, two aides to parliamentarian Volodymyr Filenko and an unnamed opposition journalist were detained on administrative charges by a court in Kharkiv for disrupting public order. Officials stated that they had staged an unauthorized demonstration in Kharkiv on May 1, protesting government policies.

On August 6, police in Sumy Oblast, acting on direct orders from Governor Volodymyr Scherban, attacked a large group of students who were marching along a major highway to Kiev to protest the merger of three colleges in Sumy. An opposition M.P. who was on the scene said that police pushed students to the ground, kicked them, beat them with truncheons, and dragged at least 20 of them to waiting buses which took them to a police station. The students were later released. Opposition M.P.s called on the Government to dismiss the Interior Minister over the incident; however, the Government took no action.

On August 12, in Dnipropetrovsk, local authorities used tractors and huge air compressors to disrupt a rally by Socialist party presidential candidate Oleksandr Moroz.

On March 12, March 26, and October 10, the last four prisoners of the Ukrainian National Assembly/Ukraine People's Self Defense Organization (UNA/UNSO) convicted in connection with 2001 anti government demonstrations were released.

The Constitution provides for freedom of association but this right was infringed, especially in the presidential election campaign. Registration requirements for organizations were extensive, but there were no reports that the Government used them during the year to disband legitimate organizations or prevent them from forming.

The law places restrictions on organizations that are considered dangerous, such as those that advocate violence or racial and religious hatred or that threaten the public order or health. The Government had not identified publicly any group as "dangerous" by year's end; however, members of the Pora movement and some far right political organizations reported that they were subject to frequent harassment and surveillance by government authorities.

Political parties must maintain offices in one half of the regions and may not receive financial support from the state or any foreign patron. In accordance with the Constitution, the law prohibits the establishment of political parties in the executive and judicial branches, military units, law enforcement organizations, state owned enterprises, and other public institutions; however, this prohibition often was ignored in practice. The Supreme Court reserves the right to ban any political party upon the recommendation of the MOJ or the Prosecutor General; however, no parties were banned during the year.

Interference with freedom of association increased significantly in the campaign period before the October 31 presidential election and the November 21 runoff. For example, according to the Helsinki European Human Rights Union, on October 16, 17, and 18, police officers conducted unauthorized searches of the offices used by several youth and student organizations, including Pora and Student Wave. The searches were conducted on such pretexts as a search for explosives or investigation of reports that the organizations had been engaged in terrorism. A number of organization leaders were detained, although most were released within a few hours. Some of them later asserted that they had been questioned about, for example, the contents of publications they had distributed which were critical of the authorities.

c. Freedom of Religion

The Constitution and the law provide for freedom of religion, and the Government generally respected this right in practice. Religious groups of all beliefs flourished; however, there were isolated problems at the local level, at times as a result of local officials taking sides in conflicts between religious organizations. Some local officials at times impeded attempts by minority and nontraditional religions to register and buy or lease property.

The Constitution and the law provide for the separation of church and state and there is no state religion; however, the UOC Moscow Patriarchate and the Ukrainian Greek Catholic Church tend to dominate in the east and west of the country, respectively. Local authorities often sided with the religious majority in a particular region, taking the side of the Ukrainian Orthodox Church (UOC) Moscow Patriarchate in many areas of the country, and supporting the Ukrainian Greek Catholic Church in the western part of the country.

Under the law, all religions, faiths, and religious organizations are equal, and this provision was generally respected, although foreign missionaries associated with groups not legally described as "native", (i.e. not Orthodox, Greek Catholic, or Jewish) were subject to a few additional legal requirements that did not appear to affect their work during the year.

Significant political influence at the local and regional levels was exerted by the UOC Moscow Patriarchate, which predominated in the south and east, the UOC Kiev Patriarchate, which was strong in the central and western regions, the Ukrainian Autocephalous Orthodox Church (UAOC), which was also strong in the central regions, and the Greek Catholic Church, which predominated in the west. Each of these churches, within its respective sphere of influence, reportedly pressured local officials to restrict the activities of the others. The UOC Kiev Patriarchate and the Ukrainian Greek Catholic Church complained of harassment by local authorities in the predominantly Russian speaking southern and eastern regions of the country. The UOC Moscow Patriarchate complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region.

A poll conducted in August by the All Ukraine Sociological Service found that 50.44 percent of the respondents who described themselves as believers considered themselves to be members of the UOC Kiev Patriarchate, 26.13 percent members of the UOC Moscow Patriarchate, 8.02 percent Greek Catholic Church, 7.21 percent UAOC, 2.19 percent Roman Catholic Church, 2.19 percent Protestant, 3.2 percent other denominations, and 0.63 percent observe Jewish religious practices.

The law requires all religious organizations and non secular institutions of education offering religious diplomas to register with the State Committee on Religious Affairs (SCRA). Registration is necessary to own property or carry out many economic activities, such as publishing religious materials and opening bank accounts. The UOC Kiev Patriarchate reported delays in the registration of its parishes. Some minority religious organizations reported that, particularly at the local or regional levels, officials of the SCRA delayed the registration of their organizations for extended periods.

Representatives of the Progressive Jewish Communities claimed that local authorities and Chabad Lubavitch officials made statements against their community in the local press while the group was organizing communities in Dnipropetrovsk. The Progressive Jewish Community claimed not only that the Dnipropetrovsk Chabad Community opposed the registration of any Jewish community but itself in the region, but also that, under pressure from Chabad Lubavitch, it was denied registration in Dnipropetrovsk.

Representatives of the Muslim community noted that they have been unable to register a community in Kharkiv for the past 12 years. Islamic community leaders expressed frustration with the Ministry of Education, which had yet to register a single Islamic school.

The Government generally permitted religious organizations to establish places of worship and to train clergy. The Government continued to facilitate the building of houses of worship by allocation of land plots for new construction and through restitution of religious buildings to their rightful owners.

Members of numerous religious communities encountered difficulties in obtaining land permits and building permits, particularly in Kiev; however, problems were not limited to religious groups.

The clergy, religious preachers, teachers, and other representatives of foreign organizations who are foreign citizens and are in the country temporarily, may preach and perform religious rites or other canonical activities only in the services of the religious organizations who sponsored their visas and with the official agreement of the state agency that registered the sponsoring religious organization. There were no reports that the Government used this provision of the law to restrict the activity of religious organizations during the year.

The law restricts the activities of "nonnative," foreign based, religious organizations and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other non citizen representatives of foreign based religious organizations; however, in practice there were no reports that the Government used the law to limit the activity of nonnative religious organizations. In late 2003, there was one report that foreign religious workers, a pair of Islamic clerics, encountered difficulties obtaining visas.

Denominational religious instruction is prohibited in the public school curriculum, but individual schools have the right to introduce a course in "basic Christian ethics" developed by the Government and the UOC Kiev Patriarchate. While the country's Jewish leaders also support the teaching of ethics and civics in school, they insist on a nonsectarian approach to this training. Schools run by religious communities may, and do, include religious education as an extracurricular activity.

Government leaders demonstrated their commitment to religious pluralism by attending ceremonies of a wide range of faiths during the year. The Government was generally supportive of initiatives to erect an appropriate memorial, and possibly a heritage center, at Babyn Yar, the site of World War II atrocities against Jews and members of other minority groups.

Outstanding claims for restitution remained among all of the major religious communities. The Government continued to return properties expropriated during the Soviet era to religious groups; however, not all groups regarded the pace of restitution as satisfactory, and all major religious communities continued to have outstanding restitution claims. For example, on May 11, the Pope called on the Government to return former Roman Catholic churches to the Roman Catholic community. Intra communal competition for particular properties complicated the restitution issue for some Christian and some Jewish communities.

On February 5, the Zhytomyr Oblast Archive returned 17 Torah scrolls to the local Jewish community. The Government returned a synagogue in Kharkiv, which in April was transferred to representatives of Progressive Jewish religious communities of the Kharkiv Region. In May, the Government returned the former residence of Catholic Bishop in Lviv for use by the Roman Catholic Church. Some groups asserted that restitution generally was progressing satisfactorily, although others that did not receive property reported a lack of progress.

There were acts of anti-Semitism during the year. On July 11, a rabbi was assaulted near Kiev's Brodsky Synagogue, according to a July 12, 2004 report by the MIGnews.com news web site and the July 14 edition of the newspaper Fakti. Rabbi Chaim Pikovsky was walking to the synagogue on July 11 dressed in traditional Orthodox Jewish clothing. According to the police, at least one unidentified "hooligan" approached Pikovsky, insulted him, and then struck him. According to Pikovsky's lawyer, the police investigated the attack and detained a suspect; that suspect was later released because of a lack of evidence.

On August 24, two rabbis were attacked in central Odesa by three men who witnesses say were obviously drunk. The rabbis fought off their assailants with the help of some bystanders. Police captured one of the alleged perpetrators, who while being interrogated told police he wanted to kill Jews. At year's end, police were still searching for the other assailants.

At the end of August, Chaim Dubnov, a Donetsk yeshiva student, was walking with his family in the center of Donetsk when a group of youths chanting anti-Semitic insults surrounded them, knocked Dubnov to the ground and kicked him several times. He was hospitalized with head injuries. According to Jewish community leaders in Donetsk, the police were continuing to investigate the attack at year's end.

On August 8, police told the media that 26 gravestones were vandalized in the Jewish section of the Donetsk Oblast. Police caught the perpetrator, who told police he overturned the gravestones looking for metal brackets to sell for scrap. On August 20, it was reported that 15 more gravestones in the same cemetery were vandalized. The number "666" (according to some, a Biblical mark of Satan) had been spray painted on some of the overturned gravestones. Local police were still searching for the perpetrators.

At year's end, the trial of the pro opposition newspaper Silski Visti remained ongoing. The newspaper was appealing a lower court ruling, publicly endorsed by the Government, that it be closed for fomenting inter ethnic hatred by publishing at least two anti Semitic advertisements. At year's end, Silski Visti was still publishing normally.

A dispute between nationalists and Jews over the erection of crosses in Jewish cemeteries in Sambir and Kiev remained unresolved despite mediation efforts by Jewish and Greek Catholic leaders.

In December 2002, a local court ordered a halt in the construction of an apartment building at the site of an old Jewish cemetery in Volodymyr Volynsky. However, according to the Secretary of the Volodymyr Volynsky Municipal Council, apartment construction was completed during 2003 and most of the units were occupied. Local Jewish groups complained during the year that the SCRA continued to refuse to help resolve this dispute.

Muslims often were subject to document checks by local police, particularly in Kharkiv and Poltava. They raised this issue with the Presidential Administration and the SCRA; however, there was no action by the SCRA by year's end.

Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as public criticism for betraying native religions, although there were no reports of harassment.

On May 18, President Kuchma signed a law that allows conscientious objectors to perform alternative service in lieu of serving in the military. The term of service for conscientious objectors is 27 months and for those drafted in the armed forces 18 months.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice; however, there were some limitations.

Until November 2001, the propyska system a nationwide requirement, dating to the Soviet regime, that individuals register at the workplace and place of residence in order to be eligible for social benefits remained in place; access to certain social benefits was limited to the place where one was registered. However, following the December 11, 2003 passage of the law "On The Freedom Of Movement," a new system, simply known as "registration," was introduced during the year. Human rights groups stressed that the major difference between the new system and the propyska system is that a person may live, work, and receive services anywhere in the country (see section 1.f.).

Police arbitrarily detained persons for extensive document checks and vehicle inspections (see Section 1.f.).

Citizens who wished to travel abroad generally were able to do so freely. Exit visas were required for citizens who intended to take up permanent residence in another country, but there were no known cases of exit visas being denied to citizens during the year. The Government could deny passports to individuals in possession of state secrets, but those denied had the possibility of appealing.

The Constitution prohibits forced exile and the Government did not employ it.

Under the terms of the Citizenship Law, refugees may acquire citizenship if they have lived legally in the country for 3 years (instead of 5 years for other foreigners) and are able to communicate in the Ukrainian language. Refugees are not required to document the termination of their previous citizenship unless the Government has signed a specific agreement with the country of previous citizenship mandating such a procedure; they must only notify the authorities of their rejection of foreign citizenship. Since independence, more than 1.5 million persons have returned to the country, while more than a million persons, mostly ethnic Russians, have left the country.

Citizenship law facilitates the acquisition of citizenship by Crimean Tatars, who were deported victims of political oppression, by waiving some of the usual residence and language requirements. More than 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. According to the U.N. High Commission for Refugees (UNHCR), approximately 98 percent of the Tatar returnees have acquired citizenship, although Tatar representatives criticized aspects of the resettlement process (see Section 5).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement (the return of persons to a country where they feared persecution), but it granted refugee or asylum status infrequently.

The law entitles refugees to all of the benefits accorded to citizens, and the Government generally complied with these entitlements. It also provides that temporary refugee status may be granted for 1 year; this status is reviewed annually by

migration service officers at the refugee's place of residence. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and operated refugee reception centers in Vinnytsya and Odesa.

According to UNHCR officials, the biggest obstacle to the implementation of the Government's commitments to the protection of refugees is that authorities strictly apply the requirement that applicants for refugee status apply within 3 working days of their entry into the country. This led the authorities to refuse to initiate asylum procedures for 70 percent of all asylum seekers. As a result, they remained undocumented and faced arrest, detention, and deportation.

UNHCR reported that, as of June, there were approximately 2,700 refugees in the country, most of them from Afghanistan and Chechnya. According to the State Committee for Nationalities and Migration, in 2003 the Government received 1,215 applications for refugee status. The authorities refused to accept 857 of those applications; 429 applicants were permitted to begin the asylum process. Refugee status was granted to 56 individuals; 144 were turned down. The remaining cases were under review as of October.

Police harassment of refugees with dark skin, and, to a lesser degree, Asians, continued during the year. In 2003, such harassment included at least one severe beating. The UNHCR issued beneficiary cards to persons it recognized as refugees. Presentation of this card to law enforcement authorities reportedly led to some reduction in harassment, although this procedure did not help the large numbers of unrecognized refugees. The UNHCR continued to hold training seminars for judges, border guards, and other law enforcement personnel that focus on preventing such behavior.

Section 3 Respect for Political Rights: The Right of

Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections; however, this right was restricted during the year by the authorities, who engaged in many forms of manipulation of presidential, parliamentary, and local elections. In most of these contests, candidates opposing the Government faced administrative obstacles, efforts to discourage sympathetic media coverage of the opposition, interference in their organizational activities, and, in the case of the Mukacheve mayoral election in April, physical intimidation and theft of ballots by hired thugs. Political manipulation was particularly notable in the October 31 presidential election and the November 21 runoff; however, a repeat runoff vote on December 26, which followed the Supreme Court's invalidation of the first, was judged by reputable international observers, including the OSCE, to have been a significant improvement.

The Constitution provides for universal suffrage for citizens at least 18 years of age and for elections every 4 years for the Rada and every 5 years for president. The Rada is elected partially according to proportional representation and partially by direct constituency mandate.

The authorities placed a variety of obstacles in the way of the opposition Our Ukraine bloc and its leader, Viktor Yushchenko, restricting his access to media coverage and limiting his ability to campaign for the October 31 and November 21 rounds of the presidential election (see Section 2.b.).

The OSCE observer mission noted serious flaws in the first round of voting for president, including a strong media bias, problems with the voters' lists, which excluded up to 10 percent of voters, and administrative pressure on students, government, and state enterprise employees. In the second round held between the two frontrunners, observers noted massive and systematic fraud through the abuse of mobile ballot boxes, absentee ballots, which were cast in exceeding high numbers, and ballot stuffing, as well as previously cited problems. The Supreme Court invalidated the results and ordered a revote set for December 26. In order to reduce the scope for fraud, the Parliament and President cooperated to amend the presidential election law to limit absentee and mobile ballot voting, and appointed a new Central Election Commission. The December 26 revote was judged by reputable international observers, including the OSCE, to have reflected the will of the people and brought Ukraine substantially closer to meeting international standards for free and democratic elections.

Corruption was rampant in the executive, legislative, and judicial branches of the Government. According to one survey, 80 percent of respondents considered corruption to be one of the country's most serious problems, with 57 percent viewing the police, 34.4 percent the courts, and 30 percent the office of the Prosecutor, as corrupt.

A U.N. Public Administration report noted that regulations governing business activities in Ukraine were excessive and ambiguous, which facilitated corruption. Corruption and nepotism figured in appointments to governmental positions. The report noted that the operations of the natural gas industry, and particularly the state owned gas monopoly, Naftohaz, were characterized by corruption. It suggested that "the operations of Naftohaz, believed to reflect the overlapping interests of business, politics, and crime, are suspected of being the source of illicit income for government officials and President Kuchma." The sale of the massive Kryvorizhstal steel works to government-connected insiders for half of what other bidders had offered also raised serious questions about corruption.

The Chairman of the Rada Committee on Combating Organized Crime and Corruption, Dr. Volodymyr Stretovych, has described corruption within the executive and legislative branches of government as a "systemic disease."

The law provides public access to certain government information, usually through websites; however, Internet access was still relatively limited both in terms of technology and overall number of users. Prominent government watchdogs, including former M.P. Inna Bogoslovskaya, noted that the Government posted information on the Internet only after important decisions were made. Information on the process by which the Government made important decisions usually was not available to the public. However, Bogoslovskaya noted that local governments were relatively more transparent than the national Government.

There were 20 women in the 450 seat Rada. One woman held a ministerial post: Valentyna Dovzhenko, the Minister of Family, Children, and Youth. The 18 member Constitutional Court had 2 female members.

The number of minority group members in the 450-seat Rada was not available. However, press reports indicated that the Rada included ethnic Russians, Bulgarians, Tatars, Armenians, Hungarians, Georgians, and Jews. There was one ethnic Russian in the Cabinet of Ministers.

The representation of Crimean Tatars continued to increase in local and regional councils; however, Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean parliament. The Tatars, who comprise 13 percent of the population of Crimea, occupied 8 percent of the seats in the regional parliament and somewhat smaller percentages of political and administrative posts.

Section 4

Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to the views of NGOs; however, human rights and election monitoring groups reported that they faced many difficulties, including surveillance by the SBU.

The Government's attitude toward many international NGOs, while not overtly hostile, was unwelcoming. For example, on May 21, Communist Party M.P. Valeriy Mishura, speaking at the urging of the Government, asserted in the Rada and to the press that most NGOs were foreign funded and "interfered" in domestic politics by working on behalf of the political opposition; he criticized the National Democratic Institute (NDI), the International Republican Institute (IRI), the Adenauer Foundation, the International Renaissance Foundation, the Eurasia Foundation, and Freedom House, among others. He claimed that some NGOs had trained young persons in how to stage "Serbian and Georgian style anti government protests." Mishura was a member of an ad hoc parliamentary commission established in December 2003, to investigate foreign funded NGOs. Human rights observers among the reasons for the establishment of the commission was an effort by the Government to intimidate NGOs and discredit them in the eyes of the public and further stifle freedom of speech.

The Government generally cooperated with international governmental organizations, including the U.N.

The parliamentary Commissioner on Human Rights is a constitutionally mandated, independent, Human Rights Ombudsman. The incumbent, Nina Karpachova, was reelected in June 2003 to a second 5 year term. The law provides the Ombudsman with unrestricted and unannounced access to any public official, including the President, unrestricted access to any government installation, and oversight of the implementation of human rights treaties and agreements to which the country is a party. However, the law provides no penalties for those who obstruct the Ombudsman's investigations and does not create sufficient enforcement authority for the Ombudsman. All citizens and residents may address their concerns to the Ombudsman, and the Ombudsman serves as an intermediary between citizens and the Constitutional Court, since citizens cannot address the Court directly (see Section 1.e.).

The Ombudsman's office consisted of approximately 100 full and part time workers; however, according to the Ombudsman, underfunding of the office continued to hamper its activities. The Ombudsman continued to make the combating of trafficking in persons (see Section 5) and improving prison conditions major priorities during the year.

Citizens have the right to file appeals with the European Court of Human Rights (ECHR) about alleged human rights violations. In the first half of the year, the ECHR made rulings on seven Ukraine related cases; in six, violations of human rights were found.

Section 5

Discrimination, Societal Abuses, and Trafficking in

Persons

The Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, the Government did not enforce these provisions effectively due, in part, to the absence of an effective judicial system.

Women

Violence against women remained a serious problem. Spousal abuse is illegal but was common, and the authorities often

pressured women not to press charges against their husbands. For example, a 2000 study by the Institute of Sociological Research, the latest major study of its kind, reported that 12 percent of women under the age of 28 had been victims of domestic violence.

According to the Ministry of Internal Affairs, between January and June 2003 (the latest period for which statistics were available), 137,323 domestic violence complaints were made to Ukrainian law enforcement agencies. During that same period, 15,917 people were charged with breaking the Law on Prevention of Domestic Violence; 15,000 of these cases involved physical abuse of a victim. In addition, as of June 2003, 23,786 people had been issued first time official warnings in connection with domestic violence allegations; 3,268 had been issued second time warnings.

Violence against women did not receive extensive media coverage despite the efforts of human rights groups to highlight the problem. State run hot lines, shelters, and other forms of practical support for victims of abuse were few. Municipal authorities in Kiev ran a women's center, the only municipally supported shelter in the country. NGOs attempted to provide services for abused women through the establishment of women's support centers in nine cities. In the spring, the Government opened 13 new rehabilitation centers for battered women.

The Criminal Code prohibits rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. While statistics compiled by the U.N. Development Program (UNDP) showed that the number of reported rapes and attempted rapes had decreased over the previous few years, surveys indicated that the majority of rapes and other cases of physical abuse went unreported. Past surveys by women's groups indicated that between 10 and 15 percent of women had been raped and that more than 25 percent were abused physically in their lifetimes. The International Helsinki Federation for Human Rights reported in 2000 that 20 percent of women aged 17 to 21 had faced attempted rape.

Trafficking in women for sexual exploitation was a serious problem (see Section 5, Trafficking).

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, legal experts regarded the safeguards against harassment as inadequate.

Human rights observers and women's groups stated that discrimination against women continued to be a common problem in the workplace. The Government and private businesses regularly specified the gender of employees in their help wanted advertisements, and employers frequently demanded information about a woman's family situation and subsequently used it to deny employment to women who were likely to become pregnant. Physical appearance and age were often taken into account in employment decisions involving women.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed; however, industries that were dominated by female workers were also those with the lowest relative wages and the ones that were most likely to be affected by wage arrears problems. According to the UNDP's report on gender issues, women's monthly wages in 2002 were 30.7 percent lower than the average monthly wages for men. Labor market analysis conducted by the International Labor Organization (ILO) in 2002 indicated that unemployment levels for men and women did not differ significantly.

Many women's rights advocates expressed concern that the law prohibiting the employment of women in jobs that are hazardous to their health might be used to bar women from the best paying blue collar jobs. By law, pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3 years. This benefit was cited as a disincentive for employers to hire women for high responsibility or career track jobs. However, approximately 49 percent of the workforce consisted of women.

Few women held top managerial positions in state and private industry. During Rada hearings on June 9, Minister of Family, Children and Youth Valentyna Dovzhenko stated that women held only 3 percent of the highest, "first category," positions in the Government's "power ministries" the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU. However, they were better represented in lower management positions; according to government statistics, at the end of 2002, 75 percent of the country's approximately 216,949 civil servants were female (162,682), including 60.5 percent of those in managerial positions.

Educational opportunities for women generally continued to be equal to those enjoyed by men; however, the Government limited the number of women permitted to receive military officer training to 20 percent of the total number of students accepted. In addition, the military forces limited the functions of women, which reduced their chances for promotion and training opportunities; women in the military generally occupied low paying, routine positions.

Children

The Government was publicly committed to the defense of children's rights, but budgetary constraints severely limited its ability to ensure these rights. There were few government bodies or NGOs that aggressively promoted children's rights, although the Ombudsman spoke publicly on the need to provide for youth.

Education was free, universal, and compulsory until the age of 15; however, the public education system has deteriorated as a result of the Government's financial disarray. Teachers were usually paid their salaries during the year, but other monetary benefits due them were not paid in some localities. Increasing numbers of children from poor families dropped out of school, and illiteracy, which previously was very rare, was a problem. Of the nearly 6.5 million children attending school during the 2003-04 school year, approximately 3.2 million were girls and 3.3 million were boys. The All Ukrainian Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools persisted, particularly in the notoriously violent vocational schools, and discouraged some children from attending school.

Health care was provided equally to girls and boys, but the overall quality of the health care system was poor.

Violence and abuse against children remained a problem. The "Voice of Ukraine" newspaper reported on January 27 that, according to a poll conducted by the State Institute of Family and Youth, 43 percent of minors said that they had been victims of some form of violence. During 2003, 300 criminal cases were opened against parents for neglect of parental duties. The majority of complaints of abuse of children related to child prostitution, pornographic video sales, and child molestation. The Interior Ministry reported that during the year, 6,200 parents received administrative sanctions, predominantly in the form of fines, for abusing their children.

Trafficking in children and commercial sexual exploitation was a serious problem (see Section 5, Trafficking).

Child labor was a problem (see Section 6.d.).

The number of homeless children, usually children who fled poorly maintained orphanages or poor domestic conditions, remained high. According to the Ministry for Family, Children, and Youth, the Government identified 2,600 homeless children in 2003. Deteriorating conditions in the state orphanages has led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of family orphanages, where the parents are paid a salary, the state financially supports the children, and a house or apartment is provided. According to officials, 1,400 children were living in family orphanages during 2003.

In February 2003, President Kuchma signed a decree that established a national program aimed at addressing the problem of homelessness among children. The program established a country wide hotline for children in the Ministry of Family, Children and Youth. During the first 6 months of the year, the hotline received 3,772 calls. The program has also increased the Government's cooperation with UNICEF to improve socio legal support for children and prevent homelessness; the Government signed several agreements with UNICEF during the course of the year to help achieve those goals.

Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in men, women, and children remained a significant problem. There were reports that local officials abetted or assisted organized crime groups involved in trafficking.

The law provides for penalties of generally 3 to 8 years' imprisonment for trafficking in human beings, including for sexual exploitation, pornography and forced labor. Under some circumstances for example trafficking of minors ages 14 to 18, or of groups of victims traffickers may be sentenced to prison terms from 5 to 12 years, and traffickers of minors ages up to 14 or members of organized trafficking groups may be sentenced to terms from 8 to 15 years.

The Government continued to investigate and prosecute suspected traffickers. According to statistics supplied by the Ministry of Interior, 202 cases were filed against traffickers during the first 8 months of the year involving 101 suspected traffickers and 195 victims, including 6 minors. The authorities broke up 14 organized criminal rings involved in human trafficking during the first 8 months of the year. During the first 6 months of the year, the security services announced that they had closed off 20 human trafficking channels and initiated 21 trafficking cases. During the same period, at least 30 criminal cases were brought to court and 42 defendants were sentenced on trafficking related charges; 24 were given suspended sentences, 15 people were imprisoned to 2 to 8 year terms, and travel restrictions were imposed on 3 others.

The Ministry of Internal Affairs, with its special anti trafficking units at the national and oblast levels, was the primary agency to combat trafficking internally, while the Security Service became involved once a foreign link was identified. The Ministry's special units were active but also were often tasked to work on cases involving crimes other than trafficking.

The Government reported that it regularly reviewed the licenses of domestic employment agencies. In a limited number of cases during the year, the Ministry of Social Policy and Labor withdrew agency licenses because of involvement in trafficking.

The Government sought to cooperate with foreign governments to the investigate and prosecute trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of victims to give evidence against traffickers, and a lack of cooperation from officials in destination countries. During the first 6 months of the year, the authorities deported 34 individuals for complicity in human trafficking.

The country remained a country of origin for internationally trafficked men, women and children. The Ministry of Interior estimated that during the previous decade approximately 400,000 women were trafficked abroad. The main destinations were Russia, Turkey, Central and Western European countries, the United States, and the Middle East. There were also reports that women and girls were trafficked to Australia, Japan, Ethiopia and South Africa.

The country also was increasingly a country of transit for individuals from Central Asia, Russia and Moldova. The International Organization for Migration (IOM) reported that, as of October 31, 111 registered individuals from Moldova, Russia, Kyrgyzstan, Uzbekistan, Kazakhstan and Belarus had been trafficked through the country to Turkey, one person from Moldova had been trafficked to the United Arab Emirates, and one person from Uzbekistan had been trafficked to Israel. There were also reports that the country was a destination for trafficked women; for example, IOM reported that as of October 31, four individuals had been trafficked to the country from Uzbekistan.

Men were mainly trafficked as construction workers and miners. Children who were trafficked across the border or within the country were forced to provide sexual services, engage in unpaid work, or beg. However, the overwhelming majority of trafficking victims were women, who were used as sex workers, housekeepers, seamstresses, and dishwashers. Trafficked women were also used to bear children for infertile couples.

Estimates varied widely on the number of individuals seeking work abroad. Ombudsman Nina Karpachova estimated that over the past 2 years, 2 to 7 million individuals had left the country in search of employment abroad. According to Karpachova, at least 5 million Ukrainians are engaged in seasonal work abroad in both legal and illegal employment status.

Traffickers used a variety of methods to recruit victims, including advertisements in newspapers and on television and radio that offer jobs abroad with high salaries and promises of modelling contracts, marriage proposals, and trips through travel agencies. Traffickers often presented themselves as friends of other friends and deceived the relatives of potential victims. Most traffickers prosecuted were members of organized crime groups. The traffickers often paid for the processing of passports and travel documents for the victims, thus placing them into debt bondage. In some cases, the traffickers simply kidnapped their victims.

Corruption in the judiciary and police impeded the Government's ability to combat trafficking. There were unconfirmed reports that local officials abetted or assisted organized crime groups involved in trafficking. NGOs reported that local militia and border guards received bribes in return for ignoring trafficking. There was no official data on government authorities receiving bribes from traffickers or otherwise assisting in their operations, but some law enforcement investigations of human trafficking have revealed abuses of power by governmental officials.

From January to June, IOM helped 342 trafficking victims to return and reintegrate into society. From January 2002 to August 2004, the NGO La Strada assisted an additional 44 victims to return home and reintegrate. However, these victims represented only a small percentage of the total number of women trafficked abroad. Victims of trafficking were able to receive various types of assistance including medical, psychological, legal, job skills training, job placement, and micro credits. Psychological assistance was widely available through state institutions, but medical assistance was only available from shelters funded by international organizations and was not fully provided in all cases. The IOM office in Kiev, in cooperation with its missions in destination countries, provided return and reintegration assistance to victims. However, these organizations reported that the inadequacy of government assistance limited the support that could be extended to returning victims.

The Government worked to improve assistance provided by its diplomatic missions to victims in destination countries. During the first 10 months of the year, the country's Consulates abroad identified 276 missing citizens and helped repatriate 116 women who were victims of trafficking.

The Government ordered rehabilitation centers to be opened in each of the 27 oblasts; however, the authorities did not fully implement this directive, primarily due to lack of funds. During the year, the Ministry for Family, Children, and Youth, in conjunction with IOM and with funding provided by the European Commission (EC), planned to open five shelters called "Inter Regional Centers for Rehabilitation and Reintegration for Victims of Trafficking" in five different oblasts; however, only two centers were opened by the end of the year, in Odesa and Lutsk.

NGOs such as the domestic affiliates of La Strada and Winrock International offered some support services for victims of trafficking, but these groups also suffered from a shortage of funds.

The IOM continued to operate a comprehensive medical center and shelter for victims of trafficking in Kiev. The center provided medical and psychological services, including vocational counseling, to 238 individuals during the first 10 months of the year. Between January 2003 and August 2004, the international NGO Caritas provided 47 victims of trafficking with reintegration assistance in their shelter. Also, Caritas established a network of counseling centers providing social services to trafficked women in Khmelnytsky, Ivano Frankivsk, Sokal, and Drohobych. These centers, as well as additional NGOs funded by IOM, also played an important role in facilitating good relations and cooperation between victims, communities and law enforcement organizations in addressing trafficking issues.

Although 195 victims testified against traffickers during the year, victims often were reluctant to seek legal action against traffickers out of fear of reprisals, unwillingness to tell their stories publicly, and lack of trust in law enforcement agencies. Societal attitudes toward trafficking victims continued to stigmatize victims, deterring women from pursuing legal action against

traffickers. In addition, law enforcement officials did not provide sufficient protection to witnesses.

With foreign government assistance, the help of local administrations, and their own resources, local NGOs opened nine regional trafficking prevention and women's support centers during the year in Donetsk, Lviv, Dnipropetrovsk, Chernivtsi, Kherson, Rivne, Odesa, Ternopil, and Zhytomyr. The centers operated telephone hotlines and served as referral centers for health, legal, and psychological counseling.

NGOs also operated hotlines in Luhansk, Odesa, Kharkiv, Ternopil, Uzhhorod, Mykolayiv, Chernivtsi, Zhytomyr, Kherson and Sevastopol. During the first 6 months of the year, La Strada's national toll free hotline received 3,262 calls, 86 percent of which concerned consultation on working abroad. Winrock International reported 2,282 calls to its hotlines during the first 4 months of the year; nearly 20 percent were related to trafficking.

Government cooperation with NGOs on trafficking issues was steady during the year. Local administrations continued to include NGOs as partner organizations in their regional action plans. The Inter Ministerial Coordination Council for Combating Trafficking in Persons, chaired by a Deputy Prime Minister, failed to meet during the year or in 2003. To energize the process, a decision was taken by the Cabinet of Ministers to designate the Minister of Family, Children and Youth as the Chair of the Council. She convened the first interagency meeting on October 1. In addition, the Parliamentary Committee to Combat Organized Crime and Corruption held two roundtables concerning the issue in cooperation with local and international NGOs.

During the year, several television stations broadcast documentary films and informational programs highlighting the danger of trafficking. Additionally, several international roundtable discussions and conferences on trafficking were held in Kiev. NGOs conducted general awareness campaigns throughout the country, often in cooperation with government entities.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services; however, the Government did little to support programs designed to increase opportunities for persons with disabilities, and advocacy groups maintained that there was societal discrimination against persons with disabilities. The law mandates access to buildings and other public facilities for persons with disabilities; however, the law was poorly enforced.

Legally mandated levels of employment of persons with disabilities at state enterprises were not observed. There were only five special vocational schools for persons with disabilities. As a result, according to 1 NGO, approximately 7,000 children with disabilities received an incomplete secondary education. The Government continued its efforts to raise the profile of athletes with disabilities.

The Government supported the efforts of the NGO Parostok to involve individuals with disabilities in politics and to help ensure that they were able to cast votes at polling stations on Election Day. This effort was particularly notable in Vinnytsya.

National/Racial/Ethnic Minorities

The frequent harassment of racial minorities was a problem. The police routinely detained dark skinned persons for arbitrary document checks, whereas document checks of light skinned individuals were rare (see Section 1.d.). Although the authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. There were reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma are located throughout the country, but there are concentrations in the Transcarpathian region, Crimea, and around Odesa. They continued to face considerable societal discrimination. Opinion polls have shown that among all ethnic groups, the level of intolerance is highest toward Roma. Roma continued to be subject to violence and abuse by police (see Section 1.c.).

The Constitution provides for the "free development, use, and protection of the Russian language and other minority languages"; however, some pro Russian organizations in the eastern part of the country complained about the increased use of Ukrainian in schools and in the media. They claimed that their children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. According to 2003 official statistics on languages used in schools, Ukrainian was the language of instruction in 16,532, Russian in 2,215, Romanian in 97, Hungarian in 68, Moldovan in 9, Crimean-Tatar in 10, and Polish in 3.

Ukrainian and Crimean Tatar minorities credibly complained of discrimination by the ethnic Russian majority in Crimea and called for the Ukrainian and Crimean Tatar languages to be given a status equal to Russian. Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean legislature (see Section 3).

According to the UNHCR, 98 percent of the approximately 260,000 Crimean Tatars who returned to the country from exile in Central Asia have received citizenship. However, Crimean Tatar leaders complained that their community has not received

adequate assistance in resettling and that the previously onerous process of acquiring citizenship excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets.

Ethnic Romanians continued to call for university level instruction in Romanian or the establishment of a Romanian technical college.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that they are accepted as minorities in neighboring countries. Representatives of the Rusyn community have called for Rusyn language schools, a Rusyn language department at Uzhhorod University, and for Rusyn to be recognized as one of the country's ethnic groups. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

Other Societal Abuses and Discrimination

A leading NGO that works to protect the rights of gays and lesbians reported that a law called "On Protection of Morals" passed by Parliament in November 2003 was used to discriminate against homosexuals. For example, the law requires that newspapers containing gay and lesbian ads may only be sold if they are sealed in a hermetic package, and then only in specialized medical institutions that have a special license to treat individuals with sexual disorders. However, in practice, gay and lesbian ads appeared in many popular publications.

On February 12, the Ombudsman's office received a complaint from a pair of gay men in Volynska Oblast who alleged that they were harassed by local police. The case remained open at year's end. On September 8, a gay man also died in suspicious circumstances in Kryvyi Rih while in police custody (see Section 1.a.).

Persons living with HIV/AIDS faced discrimination in the workplace, job loss without legal recourse, harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of most workers to join trade unions to defend "professional, social and economic interests," and this right was generally respected in practice; however, certain categories of workers, such as nuclear power plant employees, are prohibited from joining trade unions.

Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union.

Changes adopted in 2003 to the Law on Trade Unions granted unions the status of "legal entities," requiring only that they supply a "notification of registration" as opposed to requiring approval from the MOJ to be established. After a new trade union informed the MOJ that it had been formed, the MOJ was required either to provide a letter confirming the union's legal status or request additional supporting documents from the union. The MOJ could not deny any applications; however, union representatives claim the MOJ used repeated requests for additional documents as a delaying tactic. Some of the gains in freedom of association brought by the enactment of the 2003 amendments were undone by the entry into force of a new Civil Code in January. The Civil Code reinstates the requirement that all legal entities, including trade unions, must register. The MOJ may deny registration if the union does not meet the requirements.

In order to acquire national status, which allows a union to negotiate directly and sign agreements with government ministries and to address the Cabinet of Ministers and President, a union must either have branches in more than half of the administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. There were both official and independent trade unions.

The courts decided in two cases to declare the registration of trade unions invalid. In March, a Donetsk court canceled the registration of the independent trade union at the firm MC Azovstal, prompting the union's director to go on a hunger strike in protest. Also in March, the Deputy General Prosecutor filed a motion with the MOJ to invalidate the registration of the national trade union "Football Players of Ukraine." After lower courts issued contradictory rulings on the matter, it was brought before the Supreme Court, but was unresolved by year's end. Claiming that the courts were deliberately delaying its registration, the union in early December appealed to the ECHR in Strasbourg.

Independent teachers unions came under severe pressure from the authorities throughout the year, especially since they were seen as unlikely to vote for the pro government candidate in the October December presidential elections. Beginning in March, local and national authorities began to assert that the teachers unions in Chernihiv province were disguised political organizations, which are banned in schools, rather than legitimate trade unions. Union organizers and members claimed they were harassed by authorities. Some teachers protested through hunger strikes, but by year's end 20 of the 79 locals of the

teachers unions had disbanded. In Kirovohrad, the administration at nursery schools and daycare centers reportedly told teachers to leave the independent teachers union or lose their jobs. Despite hunger strikes, the mayor of Kirovohrad city allegedly had the union removed from its offices, and the union lost 1,000 members.

All unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties to the Government and inherited assets from the official Soviet unions, as well as several new, independent labor unions, were registered. However, some independent unions, including the Independent Miners Union of Ukraine (NPGU) whose member unions represented a wide variety of trades and professions, chose not to register because the courts declared that the registration requirement was unconstitutional, since they became legal entities under the 2003 Law on Trade Unions. Although the FPU often coordinated its activities with the Government, it continued to work independently on some labor matters and advocated the right of workers to strike. The FPU has supported the protests of some professions over unpaid wages; however, most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership has a political party, the All Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. At year's end, there were 106 registered trade unions, including 42 traditional (FPU) and 64 new trade unions. According to the Confederation of Free Trade Unions of Ukraine (CFTU), 28 of the new trade unions were affiliated with the CFTU and the remaining 34 were affiliated with neither the FPU nor the CFTU. While exact membership figures were unknown, there were estimated to be fewer than 2 million non FPU members (down from 3 million in 2002) and 12 million (down from 14.5 million in 2002) members of FPU affiliated unions. The drop in union membership was attributed to general apathy and cynicism regarding the benefits of union membership, as well as the fact that membership was no longer required for certain benefits, such as sick leave.

Independent unions were denied a share of the former Soviet trade unions' huge property and financial holdings, particularly the social insurance benefit funds, a Soviet era legacy on whose boards FPU affiliated unions held the majority of seats. Independent trade union leaders complained that state representatives sought to influence union votes and pressure members to report on union activities.

Independent trade union leaders reported an increase in harassment during the year, both by security forces and tax authorities. For example, in March, Andriy Volynets, the son of CFTU leader Mykhailo Volynets, was kidnapped and beaten in Kiev, suffering a concussion and brain hemorrhaging (see Section 1.c.).

At the end of November, at the height of opposition demonstrations against the fraudulent runoff presidential election, Mykhailo Volynets and other opposition M.P.s occupied the FPU headquarters located on Independence Square and opened it to demonstrators. This occurred after FPU chief Oleksandr Stoyan (claiming to represent the views of the FPU membership) was reported to have encouraged President Kuchma to declare a state of emergency and impose martial law. An "initiative group" made up of the presidents of unions that belong to the FPU formally voted Stoyan out of office and voted to form a coordinating council including Volynets. However, in the meantime, the four FPU vice presidents allegedly sought to prevent the news of Stoyan's dismissal from reaching the membership, and Stoyan himself disputed the legitimacy of the initiative group's votes. Although Stoyan had not reported for work since being removed, at year's end there was no resolution to the leadership question.

b. The Right to Organize and Bargain Collectively

The law permits trade unions to organize and participate in collective bargaining; however, these rights were not always respected in practice. The Independent Miners Union continued to experience problems creating new branches of their organization. The authorities refused to recognize the union and continued unlawfully to require proof of registration for such functions as opening accounts, renting offices, and employing staff.

According to the law, joint worker management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. The law provides the right to collective bargaining; however, overlapping spheres of responsibility frequently impeded the collective bargaining process, and the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored the official unions (affiliates of the FPU). Most workers were not informed that they were not obligated to join the official union. Renouncing membership in the official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law allows an independent union to be removed easily from the collective bargaining process at the enterprise level. Under the law, if several unions at an enterprise fail to agree on joint representation, the larger union that is, the FPU represents labor in the bargaining process.

The Law on Labor Disputes Resolution establishes an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, during the first 6 months of the year, the service resolved 169 labor disputes, in which 1.6 million employees from 6,649 enterprises were involved.

The Constitution provides for the right to strike "to defend one's economic and social interests," as long as strikes do not jeopardize national security, public health, or the rights and liberties of others; the Government generally respected this right. The law prohibits strikes that jeopardize life, health, or the environment or that might hinder disaster, accident, or epidemic related operations. The law does not extend the right to strike to personnel of the prosecutors' office, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, and public servants. The Law on Transportation does not

allow strikes in the transport sector. Workers who strike in prohibited sectors may receive imprisonment of up to 3 years.

Approximately 90,000 workers are employed in the country's 11 export processing zones, particularly in mining and agricultural processing. Although labor laws are the same in these zones as elsewhere, the lack of new unions in the zones deprived workers of that option.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5 Trafficking and 6.d.). Human rights groups described the widespread use of army conscripts in the alternative service for refurbishing and building private houses for army and government officials as compulsory labor.

d. Prohibition of Child Labor and Minimum Age for

Employment

The minimum age for employment is 16; however, in certain non hazardous industries, enterprises may negotiate with the Government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short term basis in the social sector and agriculture with the consent of one parent. The State Department for Monitoring Enforcement of Labor Legislation within the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector.

The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. Children worked in the agricultural sector, and trafficking of children for the purpose of forced labor was a problem (see Section 5). Begging by children existed, although it was limited. During the first quarter of 2002, the latest year for which statistics were available, police identified almost 1,500 offenders for involvement in child labor, 111 of them for involvement in begging.

e. Acceptable Conditions of Work

Working conditions and pay levels improved along with the economy, but remained poor. In September, the Rada raised the minimum monthly wage from \$39 to \$45 (205 to 237 UAH). A new minimum wage of \$49 (262 UAH) was set in the 2005 budget on December 23; however, the increase was not implemented. Minimum pensions also rose to approximately \$13 (70 UAH). Pensioners also received a supplementary social benefit of less than \$4 monthly (20 UAH). In August, the nominal average monthly salary (as opposed to the government declared minimum) was approximately \$114 (604 UAH). The minimum wage did not provide a decent standard of living for a worker and family, as it was far lower than the legally established "subsistence level" of \$80 per month (423 UAH).

While the government sector has repaid wage arrears in most areas, in some parts of the country teachers were not paid monetary benefits (back holiday pay and service bonuses) owed to them. Before the elections, the Government announced its intention to repay debts to teachers and raise their salaries. Although wage arrears decreased from \$340 million (1.8 billion UAH) at the beginning of the year to \$154 million (818 million UAH) as of December 31, they remained substantial. Most wage arrears accumulated in industry (57.4 percent), agriculture (12.0 percent), and construction (10.1 percent). They remained a problem in the private sector (which includes large enterprises in which the State is a shareholder) and in the Donetsk region (coal sector) whose wage arrears accounted for 29 percent of the total amount in the country. The national pension system repaid all of its arrears during 2000. Average wages were not as low as these statistics suggest, since the untaxed and unreported shadow economy was estimated to account for 50 percent of total economic activity.

The Labor Code provides for a maximum 40-hour workweek, a 24 hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries significantly reduced the workweek for some categories of workers.

The law contains occupational safety and health standards; however, these frequently were ignored in practice. In particular, illegal coalmines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. Lax safety standards and aging equipment caused approximately 25,000 injuries on the job each year. During the year, 23,200 individuals were injured (1,648 fewer than in 2003), including 1,163 job related fatalities (67 fewer than in the previous year). The number of miners injured in the coal sector was 9,218 (down from 10,845 in 2003), including 200 fatalities (compared with 217 in 2003). In the coal mining sector, it was estimated that, in the first 9 months of the year, there were 2.57 deaths (down from 3.52 in 2003) for every million tons of raw coal extracted. Increased enforcement of safety regulations was a major factor in this reduction, although the numbers remain quite high.

In theory, workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment; however, independent trade unionists reported that, in practice, asserting this right would result in retaliation or perhaps dismissal by management.